

## Lease Purchase - Key Points

Prior to 2001-2002, a school district had only one statutory authority for entering into a lease purchase (apart from the ability to do a lease purchase directly with a vendor in the case of a Guaranteed Energy savings Performance Contract). Section 177.088, RSMo, provided the primary authority for lease purchases and required the lease purchase agreement to be through a third party, not-for-profit corporation. In this case, the district did not own the property or equipment, but rather the corporation purchased, constructed or renovated the property with the district making payments to the corporation for an agreed upon time frame (not to exceed 20 years). All expenditures for construction, installation, etc., are made by the corporation. The only expenditures on the district's books are for the payment of principal and interest to the corporation.

Senate Bill 303 (2001) created a new section (177.082, RSMo) as follows: *The school board may purchase apparatus, equipment and furnishings for its schools and operations by entering into lease purchase agreements with vendors. Any agreement which may result in school district ownership of the leased object must contain a provision which allows the district an option to terminate the agreement on at least an annual basis without penalty. All expenditures related to lease purchase agreements shall be considered expenditures for capital outlay and shall be made pursuant to the provisions of Section 165.011, RSMo.*

**With this new section, there are currently two classes of lease purchases a district must consider:**

1. Section 177.088 lease purchase utilizing the statutorily required not-for-profit corporation.

While lease purchases are authorized for 4 types of capital property, the expectation is that most districts will only use this lease purchase option for the purchase of buildings and land due to the requirement to set a tax rate in the Capital Projects Fund. In fact, for the lease purchase of buildings and land, the Section 177.088, RSMo, lease purchase option is the only option available. In this case, a district entering into a lease purchase after August 28, 2001, must set a tax rate set in the Capital Projects Fund that generates an amount equal to or greater than the annual principal and interest requirement.

ASBR reporting: Section 177.088 lease purchases must be reported on Part IV, Long and Short Term Debt, **LEASE PURCHASE** screen.

2. Section 177.082, RSMo, lease purchase directly with a vendor for apparatus, equipment and furnishings for its schools and operations.

There is no requirement to set a tax levy in the Capital Projects Fund for this type of lease purchase. The term "vendor" is not defined in statute, but the assumption is that the term could include, but is not limited to, equipment vendors, banks, and other lending institutions. Again, the assumption is that virtually all equipment purchases (school buses, computer equipment, energy savings equipment, vehicles, grounds keeping equipment, janitorial equipment, playground equipment, etc.) not made from fund balances or general obligation bonds will be made through this new lease purchase authority rather than the Section 177.088, RSMo, authority.

ASBR reporting: Section 177.082 lease purchases must be reported on Part IV, Long and Short Term Debt, **OTHER DEBT** screen.

## Lease Purchase - Key Points

### Notes pertaining to Section 177.088 lease purchase:

1. **Lease purchase pursuant to Section 177.088, RSMo, entered into through a third party, not-for profit corporation formed under the general not-for-profit corporation law of Missouri per Chapter 355, RSMo.**

- a. Not-for-Profit corporation established through Secretary of State (573-751-2359).
- b. Single page application - \$25.00 application fee.
- c. Application is usually acted upon within a few days of receipt by the Secretary of State.
- b. Check 501C status with the IRS; Tax exempt status with MO Department of Revenue.

2. **Distinction between lease purchase and lease/rental.**

a. Lease Purchase:

- (1) Principal and interest paid from the Capital Projects Fund.
- (2) District will **take title** to property at conclusion of lease purchase.
- (3) District does not receive or receipt cash associated with the lease purchase into district accounts. All cash is acquired, managed, and expended by the third party corporation. The only entry on the district's books reflects the annual principal and interest payments.
- (4) Does not adversely effect the certificated salary compliance calculation.

b. Lease/Rental:

- (1) Rental amount paid from the Incidental Fund.
- (2) District **will NOT take title** to the property.
- (3) If district does a \$1.00 buy out at the end of the rental of real property and takes or assumes title to property, the full amount expended for the property will be deducted from the state aid payment in the year following the transfer of title to the district. (per Section 177.088.11, RSMo).
- (4) Will increase current operating costs and may **make it more difficult** to comply with the certificated salary compliance calculation.

3. **Lease purchases can generally be categorized in two ways:**

a. Based on one of four general types of capital outlay:

- (1) Land
- (2) Buildings
- (3) Equipment
- (4) School buses

## Lease Purchase - Key Points

b. Based on the time they were entered into

- (1) Those entered into prior to : November 1, 1993 (grandfathered)
- (2) Those entered into between: November 1, 1993 - January 1, 1997
- (3) Those entered into after: January 1, 1997

### 4. Lease purchases entered into prior to : November 1, 1993 (grandfathered)

- a. Action taken by the board to enter into prior to November 1, 1993.
- b. May transfer to the Capital Projects Fund any amount necessary to pay principal and interest of the grandfathered lease purchase without regard to DESE calculated maximums.
- c. While the transfer to pay annual principal and interest for grandfathered lease purchases may **exceed** the GTB/Line 1 transfer without penalty, this may leave little revenue available for other capital outlay expenditures including emergency capital outlay expenditures.
- d. A grandfathered district with an adjusted levy for school purposes (Incidental/Teacher's Fund) no greater than the minimum levy (\$2.75) may transfer from the Incidental and Teachers' Fund to the Capital Projects Fund on the ASBR, Part I-A Transfer Funds Detail, Line 010 (GTB/Line 1 Transfer), the amount necessary to pay principal and interest **plus** the greater of the GTB or Line 1 transfer amount. The rules applicable to certificated salary apply in this case which are that the full amount of the transfer may be made regardless of expenditures if the district was in certificated salary compliance in the prior year without regard to waivers. If the district was not in certificated salary compliance, the additional transfer is limited to "adjusted" expenditures for capital outlay. A portion of **this additional** transfer may be considered as current expenditure for certificated salary compliance by adding the additional transfer amount to "current operating expenditures" on the certificated salary or FIRE calculations. This would tend to make it more difficult to comply with certificated salary requirements
- e. A district with a grandfathered lease purchase in which the annual principal and interest does **not** exceed the GTB/Line 1 transfer amount, as appropriate, and the school purposes levy exceeds \$2.75, has no transfer advantage over a non-grandfathered district (except as indicated in *item d* above).

### 5. Lease purchases entered into between: November 1, 1993 - January 1, 1997

The district may use up to the maximum calculated GTB/Line 1 transfer amount to pay the principal and interest.

### 6. Lease purchases entered into after: January 1, 1997

For any lease purchase entered into pursuant to Section 177.088, RSMo (through a third party, not-for-profit corporation), the district must set a levy in the Capital Projects Fund sufficient to pay the principal and interest on the new lease purchase. If the lease purchase principal and interest expenditure exceeds the amount generated by the tax levy set in the Capital Projects Fund, the difference will be recovered in the following year by a reduction in state aid to the district.

## **Lease Purchase - Key Points**

7. **Expenditures to pay principal and interest do not adversely affect the certificated salary calculation.**